

### **REMARKS/ARGUMENTS**

#### **Rejection under 35 USC § 112 Should be Withdrawn**

The Office Action rejected Claims 1-195 under 35 USC § 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office Action asserts that the claims recite an undue multiplicity of claims and requires that Applicant select twenty-five (25) claims for examination. The Office Action asserts that “most patents have less than twenty (20) claims.”

Applicant disagrees with the rejection under 35 USC § 112 based on multiplicity. Although the claims are directed to a single invention, the claims of the application are drawn to different features and combinations of features of the invention and are drawn to three different types of patentable subject matter, *i.e.*, a system, a computer program product, and a method. As noted in M.P.E.P. 2173.05 (n), Applicant should be allowed latitude in stating its claims in regard to number, see *In re Chandler*, 319 F.2d 211, 225, 138 U.S.P.Q. 138, 148 (CCPA 1963), and that rejections based on multiplicity “should be applied judiciously and should be rare.” For these reasons, Applicant does not believe that the rejection under 35 USC § 112 is proper. Nonetheless, in order to further the prosecution of the present application, Applicant has canceled Claims 14-65, 79-130, and 144-195.

Regarding the requirement in the Office Action that Applicant limit the selected claims to twenty-five (25) for examination, Applicant respectfully traverses this requirement. In this regard, the Office Action fails to include any analysis of the subject matter and features of the invention and why, in the Examiner’s judgment, the number twenty-five (25) is appropriate. Indeed, it appears that the number twenty-five (25) is based, at least in part, upon the note in the Office Action regarding the Examiner’s belief that “most patents have less than twenty (20) claims.” However, this basis for the requirement of twenty-five (25) claims is at best arbitrary. M.P.E.P. 2173.05 (n) is clear - Applicant should be allowed latitude in stating its claims in regard to number, see *Chandler*, 319 F.2d at 225, 138 U.S.P.Q. at 148.

Applicant has selected thirty-nine (39) claims of which Claims 1-13 are drawn to a system for facilitating the selection of purchasable items by a customer for use in an environs

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defined by the customer, Claims 66-78 are drawn to a computer program product for facilitating the selection of purchasable items by a customer for use in an environs defined by the customer, and Claims 131-143 are drawn to a method for facilitating the selection of purchasable items by a customer for use in an environs defined by the customer. The selected claims include only three independent claims (Claims 1, 66, and 131). Applicant believes that the number of selected claims is reasonably necessary to adequately define its invention in terms of subject matter and respectfully requests that the Examiner reconsider the requirement of twenty-five (25) claims.

Consideration Of Previously Submitted Information Disclosure Statement

Regarding the Information Disclosure Statement, the references were identified as a result of key-word prior art computer searches in preparing the application. Applicant thanks the Examiner for a review of the listed references and expects the Examiner will give a thorough study of such references in connection with the examination of the selected claims.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H B Ward III", written over the printed name.

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